



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,742	03/03/2004	John F. Duprey	24410.00	2875

7590 11/17/2004  
Richard C. Litman  
LITMAN LAW OFFICES, LTD.  
P.O. Box 15035  
Arlington, VA 22215

EXAMINER

GRAHAM, GARY K

ART UNIT	PAPER NUMBER
----------	--------------

1744

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/790,742

Applicant(s)

DUPREY, JOHN F.

Examiner

Gary K Graham

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8 is/are allowed.
- 6) ☒ Claim(s) 9-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 appears confusing. Line 1 sets forth a scalloped edge "for a dustpan". However, line 5 positively attaches the strip to a front end of a blade of a dustpan. Thus, applicant has claimed the combination, but the preamble should be amended to match. For example, line 1 could set forth ---A scalloped edge with a dustpan, comprising:---. Thus the combination would clearly be set forth.

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15, 16, 17 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Wyant (US patent 3,232,505).

The patent to Wyant discloses a planar strip (16, fig.4) having a scalloped edge (15, fig.3) thereon. The edge is formed as a continuous series of beveled semi-circular protruding segments. While the strip of Wyant is not disclosed as for use with a dustpan, nothing would prohibit such. The strip of Wyant could be used with a dustpan and is “adapted” for attachment to a front end of a blade of a dustpan, in-so-far as such defines any particular structure.

With respect to claim 17, as Wyant discloses that the edge is hardened and ground, the strip is considered to be of metal. “Hardened” conventionally refers to a metal treating process.

With respect to claim 20, the strip of Wyant does reduce in thickness from the rear edge to the front edge as is claimed. Use of the term “gradually” does not distinguish from Wyant.

Claims 15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Sbare (US patent 3,495,352).

The patent to Sbare discloses a planar metal strip (12, fig.1) having a scalloped edge thereon. The edge is formed as a continuous series of semi-circular protruding segments (24). While the strip of Sbare is not disclosed as for use with a dustpan, nothing would prohibit such. The strip of Sbare could be used with a dustpan and is "adapted" for attachment to a front end of a blade of a dustpan, in-so-far as such defines any particular structure.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sbare (US patent 3,495,352) in view of Trifiletti (US patent 4,969,289).

The patent to Sbare discloses all of the above recited subject matter with the exception of the strip being made of rubber or plastic.

The patent to Trifiletti discloses that it is known to make edging of rubber, plastics and metal (col. 1, lines 34-46)

It would have been obvious to one of skill in the art to make the strip of Sbare of rubber or plastics, instead of metal, as suggested is known by Trifiletti, to provide a strip that it resistant to corrosion. Additionally, it appears but a choice of materials to employ rubber or plastics instead of metal. Such are known substitutions for one another in the mechanical arts.

*Response to Arguments*

Applicant's arguments with respect to claims 15-20 are have been considered but are moot in view of the new ground(s) of rejection. As set forth above, Wyant and Sbare disclose strips with a scalloped edge providing protruding segments as is claimed. It appears that if the edge of claim 15 were claimed in combination with a dustpan, such would distinguish from both Wyant and Sbare.

*Allowable Subject Matter*

Claims 1-8 are allowed.

Claims 9-14 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

*Conclusion*

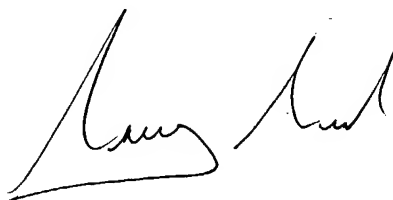
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on 571-272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Gary K. Graham", with a stylized, sweeping underline.

Gary K Graham  
Primary Examiner  
Art Unit 1744